

EXHIBIT 44

Filename: chr
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Job ID: UK0055290
Date Due: 11/28/2014
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DAVID ROSS ELLIOTT: ... and the court that's been heard before, along with where we are, etc., but just may I remind you that everybody have the courtesy to please switch off your mobile phones, as it may well interfere particularly if you're wearing a microphone. I will ask, if I may, for the witness to wear this microphone on your tie, if that's okay. Thank you very much. And here's yours in case you have things to interject, I'll just give you this. Thank you. Okay. And then I will ask the notary public to swear in the witness, and then we can proceed. Stand by, please. All set?

JULIA SHAKER: Yeah.

DAVID ROSS ELLIOT: Good morning. This is the beginning of DVD 1, Volume 1, in the video deposition of Mr. Christof Reichmuth, being held at the District Court of Luzern, Grabenstrasse 2, ground floor courtroom 1, Luzern 60002, Switzerland. This is being taken on the 24th of June, 2014, at 8 minutes past 9 AM, as indicated on the video screen. This deposition is being taken in the matter of Irving H. Picard, Trustee for the liquidation of Bernard L. Madoff Investment Securities LLC versus J. Ezra Merkin, Gabriel Capital L.P., Ariel Fund Ltd, Ascot Partners, L.P., and Gabriel Corporation, the defendants.

The case numbers are ADB Pro number 08-01789 (BRL) and 091182 (BRL), and this has been before the United States Bankruptcy Court for the Southern District of New York.

The court reporter today is Elsa Williams of U.S. Legal Support, and my name is David Ross Elliot, also here on behalf of U.S. Legal Support.

There is an interpreter present here today, Irene Basal Beck, and at this point I would now ask all of counsel to introduce themselves, please, along with who they represent.

EDWARD J. JACOBS: I, Edward J. Jacobs for the trustee.

INTERPRETER: *My name is Edward J Jacobs for the trustee*

CHRISTIAN WEBER: My name is Christian Weber, EBD Lawyers, counsel for Picard.

INTERPRETER: *My name is Christian Weber of EBD Lawyers, I am the counsel for Picard.*

NEIL STEINER: Good morning, I'm Neil Steiner from Dechert LLP, U.S. counsel to J. Ezra Merkin and Gabriel Capital Corporation.

INTERPRETER: *Good morning, my name is Neil Steiner, I am...Sorry, it's very difficult to translate these things by acoustic really because I don't know the things written on paper. Maybe it's easier if you...shall I also translate everything into German,*

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INTERPRETER: He was a consultant to some of our customers.

JUDGE: *What were the circumstances in which you found out that Madoff's advisory operation was a Ponzi scheme?*

INTERPRETER: What were the circumstances in which you first learned the relation that Madoff's investment advisory business was [INDISCERNIBLE 02:13:23] you?

CHRISTOF REICHMUTH: *We did not even know that Madoff was an investment analyst, as far as we were concerned he was a broker.*

INTERPRETER: We did not even know that Madoff was an investment manager. For us, he was always the broker.

CHRISTOF REICHMUTH: *But I heard about it on a Friday morning.*

INTERPRETER: But we heard it on Friday morning.

CHRISTOF REICHMUTH: *I think it was December 12th.*

INTERPRETER: On December 12th, I believe.

CHRISTOF REICHMUTH: *And, of course, we were surprised and shocked because...*

INTERPRETER: And naturally we were shocked and surprised because

CHRISTOF REICHMUTH: *...we knew that certain funds used him as a broker.*

INTERPRETER: because we knew that some funds were missing him as a broker.

JUDGE: *Did you have any contact with Merkin after the discovery of the Ponzi scheme operated by Madoff? If so, what was discussed?*

INTERPRETER: Did you communicate with Merkin after Madoff's Ponzi scheme was revealed? If so, what was discussed?

CHRISTOF REICHMUTH: *Well, at that time in December I had no contact with him.*

INTERPRETER: As I said, in December I was not in contact with Merkin, in December.

CHRISTOF REICHMUTH: *It was an awful time.*

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INTERPRETER: apart from myself, it was Patrick Erna that did that.

JUDGE: *Before 11 December, what did you understand Madoff's role to be with regard to Ascot?*

INTERPRETER: Prior to December 11, 2008, what did you understand Madoff's role to be with regard to Ascot?

CHRISTOF REICHMUTH: *Well, Madoff was the broker through whom we carried out this strategy.*

INTERPRETER: Mr. Madoff was the broker through who this strategy was conducted.

JUDGE: *Did Matterhorn make investments in Ascot?*

INTERPRETER: Did Matterhorn make investments in Ascot?

CHRISTOF REICHMUTH: *I answered that before, Reichmuth did not have any investments, we do not make investments of our own as a bank.*

INTERPRETER: As I said before, Reichmuth did not own investments as a bank. We do not have own assets.

CHRISTOF REICHMUTH: *That is why I answered this question before by saying that Matterhorn made the investments.*

INTERPRETER: This is why I just did these questions before, I said Matterhorn was the investment, ah, who did the investment.

JUDGE: *Apart from Matterhorn, how did Reichmuth & Co either invest its own funds or clients' funds in Ascot.*

INTERPRETER: Other than through Matterhorn, in what other ways did Reichmuth & Co. invest its own or its customers funds in Ascot?

CHRISTOF REICHMUTH: *None.*

INTERPRETER: No, none.

CHRISTOF REICHMUTH: *Because we always had the idea.*

INTERPRETER: Because we always had the idea

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CHRISTOF REICHMUTH: *And we did this using these financial accounts, audited financial accounts.*

INTERPRETER: And we do it through these testified financial accounts.

CHRISTOF REICHMUTH: *This allows us to see what the holdings are, whether the positions are held directly or other funds.*

INTERPRETER: Then we see whether we had directly positions or in other funds.

JUDGE: *Were you aware that Madoff made investment decisions for Ascot?*

INTERPRETER: Was it your understanding that Madoff was making investment decisions for Ascot?

CHRISTOF REICHMUTH: *No.*

INTERPRETER: No.

JUDGE: *Was Madoff ever identified as the Ascot's executive broker, and by whom or in what context was he identified as the executive broker?*

INTERPRETER: Was Madoff ever described as Ascot's executing broker, or who or what described him as executing broker?

CHRISTOF REICHMUTH: *That was always our understanding.*

INTERPRETER: This was always our understanding.

CHRISTOF REICHMUTH: *And that was also disclosed in the offering memorandum.*

INTERPRETER: And this was also, as far as I am concerned, disclosed in our offering memorandum.

CHRISTOF REICHMUTH: *That is, not in ours, in Ascot's.*

INTERPRETER: Not in our offering memorandum, in the offering memorandum of Ascot.

JUDGE: *Were you aware that Merkin made transaction decisions on behalf of BLIS account, what was this knowledge based on?*

INTERPRETER: Was it your understanding that Merkin was also making trading decisions on behalf of any BLMIS account? What was the basis of that understanding?

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CHRISTOF REICHMUTH: *Yes, well Ezra Merkin was the investment manager.*
[02:35:58]

INTERPRETER: Yes, as Merkin was the investment manager.

CHRISTOF REICHMUTH: *That is what was stated in the offering memorandum.*

INTERPRETER: This was actually written in the offering memorandum.

CHRISTOF REICHMUTH: *It was described again every year in the audited financial accounts.*

INTERPRETER: It was written each year anew in this offering memorandum.

CHRISTOF REICHMUTH: *He also received a fee for this service.*

INTERPRETER: And he received also a fee for this service.

CHRISTOF REICHMUTH: *And it was his fund, and that is how he always presented himself.*

INTERPRETER: And this was his fund that he also represented himself as such.

JUDGE: *Were you aware that BLMIS acted as a depositary for the assets in Ascot's account at BMLIS?*

INTERPRETER: *The German is hardly ever the same as the English.* Were you ever under the impression that Ascot invested anything other than in BLMIS, or that investments made other than in BLMIS were an essential part of Ascot's investment strategy?

CHRISTOF REICHMUTH: *So, they are in fact two different questions.*

INTERPRETER: As far as the question, these two questions do not correspond.

CHRISTOF REICHMUTH: *So, the question was...*

INTERPRETER: The question is that I was

CHRISTOF REICHMUTH: *...whether we knew...*

INTERPRETER: whether we knew that

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CHRISTOF REICHMUTH: *...that Madoff could also come in as a custodian.*

INTERPRETER: that Madoff could also be a custodian.

CHRISTOF REICHMUTH: *Yes, we knew that because it was set out in the offering memorandum.*

INTERPRETER: Yes, we knew it because it was written in the offering memorandum.

CHRISTOF REICHMUTH: *And, of course, he was also a regulated broker in the U.S.*

INTERPRETER: And he was also a regulated broker in the U.S.

CHRISTOF REICHMUTH: *That was not a problem for us.*

INTERPRETER: And for us, it did not represent a problem.

JUDGE: *Were you ever under the impression that also made other investments from the BLMIS or that other investments from the BLMIS constituted a central part of Ascot's investment strategy?*

INTERPRETER: Were you ever under the impression that Ascot invested anything other than in BLMIS, or that investments made other than in BLMIS were an essential part of Ascot's investment strategy?

CHRISTOF REICHMUTH: *As I said, Ascot is a fund which follows a strategy that is direct and on its own behalf.*

INTERPRETER: As I said, Ascot is a fund that directly performed the strategy on its own behalf.

CHRISTOF REICHMUTH: *And it did not invest in anyone else at all, the assets were held directly.*

INTERPRETER: And did not invest in anyone else. The assets were held directly.

JUDGE: *What did you understand about the split-strike conversion of BLMIS?*

INTERPRETER: What was your understanding of the split-strike conversion strategy of BLMIS?

CHRISTOF REICHMUTH: *For us, BLMIS was a broker. It had nothing to do with a strategy.*

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INTERPRETER: BLMIS for us it was a broker. It didn't have anything to do with a strategy.

CHRISTOF REICHMUTH: *But the split-strike strategy, or the strategy that as we understood it, that Ascot implemented.*

INTERPRETER: But the strategy is split-strike, or the strategy how we understood it was conducted.

CHRISTOF REICHMUTH: *The split-strike strategy was an attractive strategy, with limited risk but also limited return.*

INTERPRETER: The split-strike strategy was an attractive strategy. It set a limited risk but also a limited return on investment.

CHRISTOF REICHMUTH: *You would buy an index, foot-options, and sell co-options.*

INTERPRETER: You buy an index, you buy [PH 02:40:17] foot options, and you sell co-options.

CHRISTOF REICHMUTH: *The strategy was of interest to us because it was also very liquid.*

INTERPRETER: The strategy was interesting for us because the strategy was liquid.

CHRISTOF REICHMUTH: *But that was not the strategy of BLMIS, it was the strategy of Ascot and their investment manager, Ezra Merkin.*

INTERPRETER: But this was the strategy of Ascot with investment manager Ezra Merkin, and not the strategy of BLMIS.

JUDGE: *What was this knowledge based on? Did Merkin ever explain the BLMIS split-strike strategy to you?*

INTERPRETER: What was the basis for that understanding? Did Merkin ever explain the BLMIS split-strike conversion strategy to you?

CHRISTOF REICHMUTH: *Mr Merkin explained the strategy to us, but again...[02:41:06]*

INTERPRETER: Mr. Merkin did explain this strategy to us, but as I want to say again,

CHRISTOF REICHMUTH: *...that was not the BLMIS strategy as your question suggests.*

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CHRISTOF REICHMUTH: *And we periodically look at the key indicators.*

INTERPRETER: And from time to time, we look at the key data and the key figures.

MARC RUSSENBERGER: And for Ascot, was your review of the results, were the results consistent with what you expected based on the Ascot strategy that you described?

INTERPRETER: *And in relation to Ascot, did the result conform to what you expected and on the basis of Ascot's strategy that you described before?*

CHRISTOF REICHMUTH: *For Ascot, the figures met with our expectations more or less.*

INTERPRETER: In regard to Ascot, the figures have correspond to the expectations, more or less.

MARC RUSSENBERGER: And did you understand – I think you said earlier – but did you understand that Madoff was one of the custodians for Ascot?

INTERPRETER: *I think you said this before, but did you know that Madoff was one of the custodians for Ascot? Custodians, whatever it's called.*

CHRISTOF REICHMUTH: *We knew that Madoff's company was used as prime broker by Ascot in addition to Morgan Stanley.*

INTERPRETER: We knew that Bernard Madoff was a prime broker, one of the prime brokers besides...

CHRISTOF REICHMUTH: Morgan Stanley.

INTERPRETER: Morgan Stanley

CHRISTOF REICHMUTH: *And as a result he could also be a custodian.*

INTERPRETER: and from this point of view, he could also be one of the custodians.

MARC RUSSENBERGER: And also you knew that he was an executing broker?

INTERPRETER: *And did you also know that he was an executing broker?*

CHRISTOF REICHMUTH: *Our understanding was always that he was the broker.*

INTERPRETER: To our understanding, he was always the broker.

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MARC RUSSENBERGER: And as the broker, was it your understanding that he was responsible – he being Mr. Madoff – was responsible for carrying out the strategy of Ascot?

INTERPRETER: *And as the broker, as far as you understood, was she responsible, Mr Madoff, was he responsible for carrying out the strategy of Ascot?*

CHRISTOF REICHMUTH: *No, the investment manager is responsible, that was Ezra Merkin, the broker is responsible for the trade and also, possibly, for depositing.*

INTERPRETER: *Sorry, it was - I have to translate it precisely, in three parts, sorry...*

CHRISTOF REICHMUTH: *No.*

INTERPRETER: No.

CHRISTOF REICHMUTH: *The investment manager is responsible for implementing the strategy.*

INTERPRETER: No, for the production of the strategy is the investment manager who is responsible.

CHRISTOF REICHMUTH: *The broker is the trader.*

INTERPRETER: The broker is the trader, or he is trading.

CHRISTOF REICHMUTH: *And, as prime broker, he could also be a custodian.*

INTERPRETER: And as a prime broker, as I said before, he could also act as a custodian, or be the custodian.

MARC RUSSENBERGER: And did you ever write a memo that said that Mr. Madoff was responsible for implementing or carrying out the strategy of Ascot?

INTERPRETER: *And did you ever write a memo which said that Mr Madoff was responsible for implementing the strategy of Ascot?*

CHRISTOF REICHMUTH: *No, I don't think so, if I did so then it would be something about him being responsible for the execution, that he was responsible for trading.*

INTERPRETER: No, I do not believe – *No, I do not believe - the sentence was very long for me, I'll start now, no, I don't thing, did you say, and then?*

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JUDGE: *Did you ever express any concerns to Merkin that BLMIS was acting at the same time as investment manager, administrator and custodian, what was discussed?*

INTERPRETER: Did you ever discuss with Merkin your concern that BLMIS served simultaneously as investment manager, administrator, and custodian? What was discussed?

CHRISTOF REICHMUTH: *No, the investment manager was Ezra, we invested in Ezra.*

INTERPRETER: No, the investment manager was Ezra, and we invested in Ezra.

CHRISTOF REICHMUTH: *Madoff Securities was only the broker.*

INTERPRETER: Madoff Securities was only the broker.

CHRISTOF REICHMUTH: *And it was an SEC regulated firm and it was not in Nigeria, but in the USA.*

INTERPRETER: And this was an ACC-regulated house, and this house was in the United States rather than somewhere in Nigeria.

MALE: I think it's SEC-regulated, SEC.

INTERPRETER: SEC, sorry. I need to know these revelations before. Ah, SEC, yes, now I see it.

JUDGE: *Did you ever discuss with Merkin that the returns reported by BLMIS were always the same, if yes, what was discussed?*

INTERPRETER: Did you ever discuss with Merkin your concern that BLMIS – no. Did you ever discuss the consistency of BLMIS reported returns with Merkin? If so, what was the issue of the discussions?

CHRISTOF REICHMUTH: *No, we never received returns from BLMIS.*

INTERPRETER: No, we never received any returns from BLMIS.

CHRISTOF REICHMUTH: *We were invested in Ascot, in him.*

INTERPRETER: We invested in his group in Ascot.

CHRISTOF REICHMUTH: *He was the investment manager and he supplied us with the results.*

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INTERPRETER: Did he ever state that he verified the trading confirmations BLMIS provided with third-party sources?

CHRISTOF REICHMUTH: *No.*

INTERPRETER: No.

JUDGE: *Then, the capital meeting with Madoff.*

INTERPRETER: The [PH 04:13:34] charter confirms meetings with Madoff.

JUDGE: *Did you ever have a meeting with Madoff in person? If yes, who instigated the meeting, was Ezra Merkin involved in setting up the meeting, what were the circumstances of the meeting, what was discussed, were other people present?*

INTERPRETER: Did you ever have an in-person with Madoff? If yes, when? Who facilitated the meeting? Was Ezra Merkin involved in setting up that meeting? What were the circumstances of the meeting? What was discussed? Was anyone else present?

CHRISTOF REICHMUTH: *Yes, at the end of the 90s.*

INTERPRETER: Yes, end of the '90s.

CHRISTOF REICHMUTH: *I can't remember when exactly.*

INTERPRETER: I do not really remember when.

CHRISTOF REICHMUTH: *I was with Ezra Merkin and Alec Harkin once.*

INTERPRETER: I was once with Ezra Merkin and [PH 04:14:37] Alec Harkin.

CHRISTOF REICHMUTH: *At Bernie Madoff Securities.*

INTERPRETER: In Bernie Madoff Securities.

CHRISTOF REICHMUTH: *I can no longer remember who arranged the meeting and why.*

INTERPRETER: I do not exactly remember who exactly arranged this meeting and why it was arranged.

CHRISTOF REICHMUTH: *I don't remember anything particular about it.*

INTERPRETER: I do not really remember anything special about this.

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INTERPRETER: Doctors without Borders

JUDGE: *We will make a record of this and then we will make this donation in your name.*

INTERPRETER: We would like to take this [INDISCERNIBLE 05:04:19] and do this, send this money to these beneficiaries.

JUDGE: *That brings us to the end of this hearing, we will see each other here again on Thursday for the second witness hearing. Thank you very much.*

INTERPRETER: Then we have come to an end of this witness hearing, and we will see each other again on Thursday to the next hearing [INDISCERNIBLE 05:04:45]

DAVID ROSS ELLIOT: Okay, this is the end of DVD 3, Volume 1 of the video deposition today of Mr. Christof Reichmuth. We're going off the record now at 19 past 4PM, as it appeared on the video screen. Thank you.